

Introduced by Senator Denham

February 22, 2005

An act to amend 6608.5 of the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

SB 723, as amended, Denham. Sexually violent predators: conditional release program.

Existing law requires the Director of Corrections, prior to the release of a person from custody resulting from conviction for certain crimes of a sexual nature against 2 or more victims, to refer the person to the State Department of Mental Health for evaluation. Existing law authorizes civil commitment, as a sexually violent predator, to the custody of the State Department of Mental Health for treatment of the person's diagnosed mental disorder if the person is adjudicated to be likely to engage in sexually violent criminal behavior if discharged.

Existing law permits conditional release for one year of community treatment if, after a hearing, the court determines that the committed person does not pose a danger. Existing law requires that a nonparolee who is conditionally released under these provisions be placed in the county of domicile, as defined, unless the court finds that extraordinary circumstances require otherwise.

Existing law establishes provisions regulating the conditions for community release of inmates on parole.

This bill would, notwithstanding any provision of law, ~~require that~~ *prohibit* sexually violent predators released under the conditional release program ~~comply with the provisions applicable to the release of inmates on parole from being placed within 1/4 mile of any public or~~

private school providing instruction in kindergarten or any of grades 1 to 8, inclusive.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6608.5 of the Welfare and Institutions
2 Code is amended to read:
3 6608.5. (a) A person who is conditionally released pursuant
4 to this article shall be placed in the county of the domicile of the
5 person prior to the person's incarceration, unless the court finds
6 that extraordinary circumstances require placement outside the
7 county of domicile.
8 (b) (1) For the purposes of this section, "county of domicile"
9 means the county where the person has his or her true, fixed, and
10 permanent home and principal residence and to which he or she
11 has manifested the intention of returning whenever he or she is
12 absent. For the purposes of determining the county of domicile,
13 the court may consider information found on a California driver's
14 license, California identification card, recent rent or utility
15 receipt, printed personalized checks or other recent banking
16 documents showing that person's name and address, or
17 information contained in an arrest record, probation officer's
18 report, trial transcript, or other court document. If no information
19 can be identified or verified, the county of domicile of the
20 individual shall be considered to be the county in which the
21 person was arrested for the crime for which he or she was last
22 incarcerated in the state prison or from which he or she was last
23 returned from parole.
24 (2) In a case where the person committed a crime while being
25 held for treatment in a state hospital, or while being confined in a
26 state prison or local jail facility, the county wherein that facility
27 was located shall not be considered the county of domicile unless
28 the person resided in that county prior to being housed in the
29 hospital, prison, or jail.
30 (c) For the purposes of this section, "extraordinary
31 circumstances" means circumstances that would inordinately
32 limit the department's ability to effect conditional release of the
33 person in the county of domicile in accordance with Section 6608

1 or any other provision of this article, and the procedures
2 described in Sections 1605 to 1610, inclusive, of the Penal Code.

3 (d) The county of domicile shall designate a county agency or
4 program that will provide assistance and consultation in the
5 process of locating and securing housing within the county for
6 persons committed as sexually violent predators who are about to
7 be conditionally released under Section 6608. Upon notification
8 by the department of a person's potential or expected conditional
9 release under Section 6608, the county of domicile shall notify
10 the department of the name of the designated agency or program,
11 at least 60 days before the date of the potential or expected
12 release.

13 (e) The department shall take into consideration victim or
14 victim next of kin concerns and proximity when recommending
15 specific placement for community outpatient treatment.

16 (f) Notwithstanding any provision of law, community
17 placement of a sexually violent predator under the conditional
18 ~~release program shall comply with procedures and considerations~~
19 ~~regulating the community release of an inmate on parole as set~~
20 ~~forth in Section 3003 of the Penal Code.~~ *release program shall*
21 *not be within one-quarter mile of any public or private school*
22 *providing instruction in kindergarten or any of grades 1 to 8,*
23 *inclusive.*